



● **Board of Directors**  
***Water Planning and Stewardship Committee***

June 9, 2009 Board Meeting

---

8-11

**Subject**

---

Approve (1) use of Category III funds for the Two-Gates Fish Protection Demonstration Project; and (2) increases of \$500,000 per year each to agreements with consultants Entrix, Moffatt & Nichol, and Resource Management Associates

**Description**

---

Summary of Recommendation. Staff recommends that the Board authorize the use of up to \$4.5 million from Metropolitan's Category III non-flow environmental improvement account to assist in completion of environmental documentation and preliminary engineering for the Two-Gates Fish Protection Demonstration Project. This approval comes with the understanding that CALFED is still reviewing whether to credit the use of these funds against Metropolitan's future Delta environmental obligations. Furthermore, staff recommends the Board approve increasing the maximum amount payable under three professional service contracts to \$500,000 per year each, to contribute towards completion of the environmental documentation, hydrodynamic modeling, biological field surveys, and preliminary engineering for the Two-Gates Fish Protection Demonstration Project. These consultants, Entrix, Moffatt & Nichol, and Resource Management Associates were qualified under Metropolitan Request for Qualification #853. Increasing these contracts would provide the capability to implement this Project within the scheduled timeline.

Background. In December 1994, representatives of state and federal resource agencies, and urban, agricultural and environmental interests agreed to a set of principles known as the Bay-Delta Accord to implement a protection plan for the San Francisco Bay-Delta Estuary. The Accord included a commitment of \$60 million annually to initiate a comprehensive program to address non-outflow related impacts to the Bay-Delta environment (Category III measures). The source of financing for this commitment was from reprioritized state and federal ecosystem funding, new appropriations, and other user sources. To jump-start the process, the Metropolitan Board approved \$10 million in three installments (\$30 million total) from 1995 through 1997. Category III money was spent on improving fish passage, restoring salmon spawning grounds, improving fish screens, and enhancing wetlands.

Since 1995, these assets have been used to implement over 48 Category III projects through diversified funding partnerships. For every \$1 of Category III funds committed, nearly \$2.50 were leveraged from these partnerships. To date, \$7.1 million of Category III money remain for funding future projects.

Project Description. The Two-Gates Fish Protection Project is a key near-term project that, according to modeling analysis, should assist in reducing entrainment of Delta smelt and other sensitive aquatic species at the state and federal Delta pumping facilities without adversely affecting Chinook salmon, steelhead, sturgeon or Longfin smelt. The Project would be implemented by installing of an operable gate structure on Old River and Connection Slough in the central Delta between the cities of Stockton and Antioch. Hydrodynamic modeling analyses have also indicated that gate operations could improve water quality in the central and south Delta.

Staff from Metropolitan, San Luis Delta Mendota Water Authority, and Contra Costa Water District have been working together to analyze the Project's benefits and impacts, and to initiate development of the environmental review documents. The California Department of Water Resources (DWR) and the US Bureau of Reclamation

(USBR) would likely act as lead agencies under the California Environmental Quality Act and National Environmental Protection Act, respectively.

Funding Credit under the Bay-Delta Accord. Under the Bay-Delta Accord, a crediting mechanism was set up to achieve incentives for participating in the Category III program. The intent was to ensure that funding contributions were credited toward long-term Bay-Delta environmental obligations in an effort to provide greater equity among water users. Metropolitan Board Principles require staff to secure this credit from CALFED prior to release of Metropolitan's Category III account funds. Pursuant to these principles, staff has submitted a request to the California Bay-Delta Authority to support funding for development of environmental review documentation and preliminary engineering. While, there is some risk of not getting credit by acting in advance of CALFED approval, early indications are that CALFED will approve the use of these funds.

Project Support/Outreach. The Two-Gates Project has received positive support in project update briefings given to the state and federal water contractors, the California Partnership for the San Joaquin Valley, the Delta Protection Commission, the San Joaquin River Tributary Association, South Delta Water Agency, the Central Delta Water Agency, and numerous environmental organizations. California's Congressional delegation has indicated bipartisan support for the project in letters to DWR Director Snow. The Bay-Delta Conservation Plan Steering Committee has identified the Project as a proposed early action measure under the Conservation Plan. State and federal agencies have indicated a willingness to review the environmental documents. A review of the Project by the CALFED Independent Science Panel is scheduled for July 2009.

Schedule/Project Costs. Completion of environmental analysis and documentation, and a federal Section 7 biological assessment are scheduled for August 2009. Depending upon public comments received on the environmental documents, and assuming adequate and timely funding, the Two-Gates Project could become operational as early as December 2009. The estimated cost of the Project is \$29 million. A portion of the Category III funds will reimburse money advanced by the State Water Contractors for completion of project work to date. Other funds for the environmental review documentation and preliminary engineering are coming from San Luis Delta Mendota Water Authority, Contra Costa Water District, and from a joint effort and funding set up by state and federal contractors for scientific and engineering analysis.

## **Policy**

---

By Minute Items 41217, 41776, and 42562 (January 10, 1995; February 13, 1996; and August 19, 1997, respectively), the Metropolitan Board appropriated a total of \$30 million for "seed money" to address non-outflow related impacts to the Bay-Delta environment.

By Minute Items 41662 and 42065 (November 14, 1995 and September 10, 1996, respectively), the Metropolitan Board established policy principles related to program implementation and expenditure of funds under the Category III account.

## **California Environmental Quality Act (CEQA)**

---

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not subject to CEQA because it involves other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

**Board Options**

---

**Option #1**

Adopt the CEQA determination and authorize the General Manager to:

- a. Use up to \$4.5 million from Metropolitan’s Category III non-flow environmental improvement account to assist in completion of environmental documentation and preliminary engineering for the Two-Gates Fish Protection Demonstration Project with the understanding that CALFED is still reviewing whether to credit the use of these funds against Metropolitan’s future Delta environmental obligations; and
- b. Increase the maximum amount payable under three professional service contracts with consultants Entrix, Moffatt & Nichol, and Resource Management Associates to \$500,000 per year each to assist in completion of the environmental documentation, hydrodynamic modeling, biological field surveys, and preliminary engineering for the Two-Gates Fish Protection Demonstration Project.

**Fiscal Impact:** \$4.5 million; this would reduce the remaining Metropolitan funding previously dedicated by the Board to implement Category III non-flow environmental improvement measures to approximately \$2.5 million.

**Business Analysis:** Implementing the Two-Gates Fish Protection Demonstration Project would assist in reducing the conflict between fisheries and water supply diversion operations in the Delta.

**Option #2**

Do not support Category III funding of the Two-Gates Fish Protection Demonstration Project.

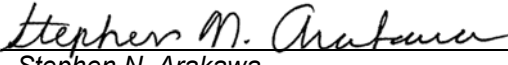
**Fiscal Impact:** Unknown. Would continue existing water supply impacts associated with the Delta smelt biological opinion and may require development and investments in higher cost alternative supplies, or greater reductions in imported deliveries.

**Business Analysis:** Reduced project funding would cause delays in implementing the Project and associated costs caused by conflicts between fisheries and water supply diversion operations in the Delta.

**Staff Recommendation**

---

Option #1

	6/1/2009
Stephen N. Arakawa Manager, Water Resource Management	Date

	6/2/2009
Jeffrey Lightlinger General Manager	Date